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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 21st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 18 August 1999, at 3 p.m.

Chairman: Mr. HATANO

later: Mr MEHEDI (Vice-Chairman)

later: Mr HATANO (Chairman)

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(continued)

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GE.99-15011 (EXT)

The meeting was called to order at 3 p.m.

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES (agenda item 8) (continued) (E/CN.4/Sub.2/1999/21 and 37; E/CN.4/Sub.2/1999/NGO/2, 6, 11 and 18)

1. Ms. ALBRECHT (International Prison Watch) drew attention to the atrocious prison conditions prevailing in Argentina which had led to rioting in a number of the country's penitentiaries over the past year, inter alia in Buenos Aires. Clashes between prisoners, which had also occurred in prisons and police stations, were due in part to overcrowding. Furthermore, social and education services and health care were inadequate, and food and hygiene left much to be desired. Overcrowding was exacerbated by the frequent use of preventive detention and the slowness of legal procedures. The majority of remand prisoners were represented by officially designated lawyers, few in number and poorly motivated. Serious violations had also occurred in Paraguay where the rights of prisoners were constantly violated, in that they had to endure violence, inadequate health care with occasionally fatal consequences, the corruption of prison officers, and detention without an arrest warrant. Moreover, minors accounted for approximately 20 per cent of the prison population, and most did not enjoy rapid legal aid.

2. The Sub-Commission should also consider the plight of female prisoners who were often mistreated, beaten, raped, body-searched and humiliated by warders in various countries. Men and women were detained in common cells in Brazil, Kenya and Chad. Female remand prisoners were not always separated from convicted female prisoners, or adults from minors. Their warders were often male, in violation of international conventions. Abuse of female prisoners had come to light in the United Kingdom and Belgium, where in some cases pregnant or sick women were forced to undergo medical examinations in degrading conditions.

3. A special rapporteur should therefore be appointed to study the conditions of detention of imprisoned persons throughout the world.

4. Mr. ROSSI (International Association for Religious Freedom) said that many minorities, and especially religious minorities, were victims of discrimination, intolerance and even persecution. A case in point was the Ahmadi community, numbering some 20 million, which considered itself Muslim. In Pakistan, where there were over 3 million Ahmadis, they had been declared non-Muslim under a constitutional amendment and had been persecuted for over 25 years. Many had been falsely accused and sentenced to death since the adoption of the blasphemy law or murdered by extremists. Their places of worship had been desecrated and they had been barred from higher education and open recruitment competitions for certain professions. They clearly, constituted an oppressed minority unable to exercise their human rights "in full equality before the law", as stated in article 4, paragraph 1, of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Sub-Commission should adopt a resolution requesting the Government of Pakistan to do whatever was necessary and invite the Commission on Human Rights to consider the matter.

5. Other religious minorities that also needed protection included the Buddhists in Tibet, the Baha'is in the Islamic Republic of Iran, the Pandits in

Kashmir and various minorities regarded as dangerous sects in France and Belgium. The Working Group on Minorities should attempt to initiate a constructive dialogue between representatives of minorities and the States concerned. If such an approach was not feasible, the Sub-Commission should adopt a resolution requesting the States concerned to implement article 4, paragraph 1, of the Declaration and duly observe the rights of the minorities in question.

6. Mr. MAEDA (Asian Women's Human Rights Council) said that the Working Group on Minorities had reaffirmed the importance of intercultural and multicultural education in protecting minorities. Education was a fundamental element in resolving tensions and preventing conflicts.

7. The situation of minorities in Japan was a source of concern. The Japanese Government had refused to recognize minorities until the 1980s. After the Committee on the Rights of the Child had examined Japan's periodic report in June 1998 and issued a number of recommendations, for example on the need to halt discrimination against minority children belonging to the Korean and Ainu communities, the Government had finally been compelled to acknowledge their existence. However, it had continued to discriminate against certain minorities such as the Koreans. Their rights were still being violated and law-enforcement agencies had failed to follow up cases of attacks against Koreans. Moreover, the Japanese Government refused to recognize Korean schools that provided an intercultural education.

8. The Sub-Commission should study the problem closely and ensure that the Japanese Government took further steps to protect the rights of minorities.

9. Mr. BIK LING (International Peace Bureau) said that the plight of minorities in Burma was very serious indeed. For 50 years, the Burmese Government had tried to assimilate ethnic minorities by force. For the indigenous peoples of Burma, it was not so much a question of promoting human rights; but simply of trying to maintain the right to life, for the Burmese army was carrying out ethnic cleansing in indigenous areas. Instances of torture, forced relocation, forced labour and abuse of women and young girls abounded. Burma's indigenous peoples had borne the brunt of persecution by the country's military regime and army.

10. The international community should therefore use every means at its disposal to halt the genocide of minority ethnic groups in Burma.

11. Mr. RAI (Liberation) said that minorities were frequently the targets of civil disturbances, labelled "riots", which were facilitated, tolerated or deliberately staged by State authorities. In some cases, "rioters" were even aided by security agencies which provided them with weapons. Once the "riots" had been quelled, their instigators were never prosecuted and the victims were never compensated. Apart from the physical damage inflicted, civil disturbances could leave deep social and psychological scars in a community. Orchestrated "riots" were a way of intimidating minorities, discouraging them from asserting their rights, and consequently depriving them of those rights. They were often a first step in the escalation of violence against ethnic groups and a precursor of even more violent conflict.

12. The Office of the High Commissioner for Human Rights should keep a record of such riots and assess the measures taken by States in each case, and the Working Group on Minorities and the Working Group on Indigenous Populations should schedule a debate on the issue. Finally, one of the experts on the Sub-Commission should make a study of "targeted disturbances" and propose a set of best practices that States could adopt by way of preventive action.

13. Mr. Mehedi, Vice-Chairman, took the Chair.

14. Mr. FATTORINI (Movement Against Racism and for Friendship Among Peoples) drew attention to the plight of the Gypsy minority which had endured persecution for centuries and had been a target outright extermination during the Second World War. After the war, owing to rapid economic growth, the general situation of Gypsy communities in Western Europe had improved somewhat. In the Eastern bloc, however, following an initial process of cultural integration, nationalist communism had victimized Gypsies in the same way as other minorities. The situation of the 12 to 15 million Gypsies throughout the world remained critical. There were two aspects of the problem that it concerned a distinctive population whose lifestyle fed an age-old racism, and the right to asylum and the legitimation of persons who lacked identity papers.

15. The Committee on the Elimination of Racial Discrimination had rightly condemned the Italian Government's policy of segregating Gypsies and had highlighted the discrimination experienced by Gypsies in seeking access to housing. They had been forced to live on the outskirts of towns in precarious conditions, which had led to their physical, political, economical and cultural marginalization. In France, areas where the roma could stay had been provided by only 300 communes out of the 1,800 deprived to do so under a law of 1990.

16. The international community should examine the situation of Gypsies carefully, and the Sub-Commission should embark upon a study of the question as soon as possible.

17. Mr. LABEID (Federación de asociaciones de defensa y promoción de los derechos humanos) said that his organization had followed with great interest the development of human rights in Morocco, but remained very concerned about the situation in Western Sahara where the Saharaonis had become a minority in their own country. In order to prevent the self-determination of the Western Saharan people, Morocco had stepped up its violations of their human rights by using napalm and phosphorus bombs, extrajudicial and summary executions, forced disappearances, torture, unfair trials, and colonization with a view to altering the demographic composition of the territory, thereby violating the international instruments to which it was a party. Such acts were to be condemned and the Sub-Commission should ensure that existing guarantees of the organization of a fair and impartial referendum scheduled for July 2000 were respected.

18. Ms. WARZAZI, speaking on a point of order, said that the statement by the representative of the Federación de asociaciones de defensa y promoción de los derechos humanos was irrelevant to the agenda item under discussion, namely the protection of minorities. The people of the Western Sahara were not a minority and were not considered as such under the United Nations settlement plan for Western Sahara. The Chairman-Rapporteur of the Working Group on Minorities should clarify whether the Working Group had ever considered the question.

19. Mr. EIDE said that although the question of the people of the Western Sahara had never been raised in the Working Group, there was no guarantee that it never would be. The Working Group had therefore never taken a decision on the subject.

20. The CHAIRMAN invited the representative of Federación de asociaciones de defensa y promoción de los derechos humanos to continue his statement on condition that he dealt only with the agenda item under consideration.

21. Mr. LABEID (Federación de asociaciones de defensa y promoción de los derechos humanos), continuing his statement, said that he had raised the issue of Western Sahara because the Moroccan Government had made the Saharaonis a minority in their own country. Morocco should implement without delay the measures proposed by the Secretary-General, free all Saharaoni prisoners, and to discontinue the repressive system which it had introduced in the territory. Furthermore, the international community in general and the Spanish Government should actively support the peace plan and facilitate the organization of a fair and impartial referendum. The Spanish Government in particular should assume its responsibilities and launch inquiries into the disappearance of Saharaonis of Spanish nationality, such as Mohamed Basiri, who had disappeared in 1970. Finally, the international community and especially the European Union should pressure the Moroccan Government to implement what had been agreed upon.

22. Ms. PARKER (International Educational Development, Inc.) said that in July 1994 Latvia had adopted a new law on citizenship which was clearly discriminatory, particularly towards persons of Russian and Jewish origin. The Sub-Commission had unfortunately not requested the Latvian Government to repeal the discriminatory provisions of that law, as International Educational Development had urged it to do in August 1994. Since that time, the Jewish and Russian populations of Latvia had left in large numbers. In 1998, International Educational Development had again voiced its concern regarding the denial of Latvian citizenship to Latvian-born children of Russian and Jewish parents, which was a violation of the Convention on the Rights of the Child. The Latvian Government was now proposing a new language law which, if promulgated, would simply exacerbate tensions between ethnic Latvians and other ethnic groups.

23. Elsewhere, attempts were being made by the Indonesian authorities to foment strife between Moluccans and Javanese who had been sent to that island as part of an ethnic dilution scheme designed to make the Moluccan people a minority in their own country. Communal strife in the Moluccas had escalated even further following the elections in Indonesia.

24. The Sub-Commission should urge the Indonesian authorities to take steps to respect the human rights of the various peoples of that country and force ahead towards democracy.

25. Mr. SORABJEE said that the problem of defining minorities had been brought into sharper focus during the debate. Sufficiently broad criteria must be adopted if the issue was to be tackled properly. Minorities should have the right to preserve their cultural identity in the widest sense, i.e. the right to use their language, practise their religion, and form their own political parties. If allowed to exercise those rights effectively, they would be less tempted to invoke them in support of separatist claims. Autonomy and secession

should not be confused. Since minorities were targets of violence in many countries, it was important that they should have ready access to the courts and national human rights commissions.

26. Mr. ANWAR (World Federation of Democratic Youth) said that the Mohajirs of Sindh province in Pakistan had experienced terrible atrocities and persecution simply because the dominant population group was not prepared to share power and natural resources with other ethnic groups in a democratic manner. Although they had made an immense contribution to the economic development of Pakistan, the Mohajirs had become the target of hatred and racism by the ruling class. Despite their numerical superiority in Sindh province, they had been excluded from political power. Extrajudicial executions, kidnappings, and the arbitrary detention of Mohajirs were routine in Pakistan.

27. Those facts had already been laid before the Commission on Human Rights and the Sub-Commission. It was hard to understand why the Sub-Commission had not requested Pakistan to call a halt to its repressive anti-Mohajir policy, and therefore another appeal should be addressed to the Pakistan authorities.

28. Mr. AHMAD (World Muslim Congress) said that, judging by the long list of participants in the fifth session of the Working Group on Minorities (E/CN.4/Sub.2/1999/21), the Working Group had become an indispensable forum for anyone concerned with protecting the rights of minorities. Paragraph 92 of the Working Group's report, which dealt with the definition of the concept of "minorities", made clear that such a definition was essential for drafting a worldwide convention on the protection of persons belonging to minorities. But considerable rigour was required in order to prevent the concept from being abused by unscrupulous persons, because the protection of human rights could be turned into a powerful political weapon. Moreover, the Working Group might wish to consider offering advice to minorities on making a positive contribution to the harmonious development of their society.

29. Another issue which merited attention was the situation of various minority groups around the world such as the Rohingyas in the Arakan area of Burma, who were victims of forced labour, torture, rape, mass evictions and other forms of State persecution, and who lacked the means to bring their suffering to the notice of the world. In the United Republic of Tanzania, the Muslim minority made up 40 per cent of the population but did not enjoy full cultural and religious rights. Access to education was governed by religious criteria, a throwback to the heyday of missionary activity.

30. India was the only country in South Asia governed by a fundamentalist religious movement, the Bharatiya Janata Party (BJP), dedicated to bringing about Hindu cultural and political ascendancy. BJP had gained enormous popularity through its active role in demolishing the Babri mosque and its advocacy of Hindu nationalism, and it seemed to draw strength from communal hatred. A month previously, with an eye to the forthcoming general election, BJP had even fomented anti-Muslim rioting in Ahmadabad in western India. Indian society seemed to be conditioned to accept anti-Muslim violence. A number of persons speaking on behalf of the ruling coalition, and hence the highest political and public circles in the country, had made statements which cast doubt on the future of Christianity and Islam in India. Gradually and systematically, the extremists had sought to eliminate Muslim contributions in all fields - political, economic,

social, cultural and others; they had already succeeded in excluding Muslims from public life, despite the safeguards embodied in the Indian Constitution. It would be in India's own long-term interest to call a halt to its discriminatory policies towards minorities and take affirmative action to ensure their full and complete participation in Indian society.

31. Mr. BENNET (Afro-Asian People's Solidarity Organization) said that the diversity of nature had ensured that in every part of the globe people distinguished by their race, colour, faith and gender were living together in close proximity. Various countries differed, however, in their treatment of the minority by the majority. Democracy and development for the benefit of all were only possible if minorities believed that their rights were being respected and protected. Human history was unfortunately replete with examples of oppression of minorities, and it was disheartening to note that, on the eve of the new millennium, discrimination was not only thriving but in many cases was perpetuated by a framework of laws and policies. Economic considerations were often at the heart of discrimination. In times of economic crisis and unemployment, minority groups tended to be cohesive and strove to improve their community's standard of living, but in so doing they provoked the rancour of the majority. Violence was subsequently justified in the name of race, colour or religion.

32. When minority groups felt slighted, there was often a danger of their adopting a ghetto mentality that tended to express itself through armed struggle. Demands for a return to an original homeland and harking back to an idealized past provided minorities with a sense of identity to counteract perceived oppression by a prosperous majority. Democracies, which were committed to the rights of individuals and bound by their own code of legal and institutional principles, were ill-equipped to deal with an armed struggle initiated by their own minorities. The situation was being exploited by terrorist groups which used religion and ethnic identity to destabilize established societies. The exploitation of religious sentiments for geostrategic purposes was also apparent in the actions of a State such as Pakistan which, far from protecting the rights of its co-religionists in lands where they were in a minority, had perpetuated the minority syndrome and the ghetto mentality - an approach which democracies opposed.

33. The protection of minority rights was a prerequisite for realizing the concept of the global family. A considerable educational effort was still needed to create the awareness that every minority group was a cultural repository that could only enrich humanity. The coalescing of the productive energies of diverse groups would be possible only when people started to view each other as equals despite their differences. That should be the goal of the human rights community, and the dismantling of State structures which encouraged discrimination on the basis of a community's minority status should be the first step in that direction.

34. Mr. SIK YUEN said that the minority issue ought not to pose a problem since a composite and pluralist State necessarily comprised a number of ethnic or racial groups in various proportions. Problems arose when minorities felt disadvantaged, not because of their numbers, but because they lacked the opportunity to exercise their fundamental rights in full. Such situations occurred when sovereign States failed to guarantee equal rights for all their

citizens, regardless whether they belonged to the majority or the minority. At the opposite end of the spectrum, Mauritius was an example of peaceful coexistence between the various peoples from different continents who had settled there. Like the different ingredients of the Mauritian national dish, the fact that every community had its place and did not begrudge the others their status had enabled unity to flourish amidst diversity.

35. At the dawn of the new millennium, the key to resolving all conflicts seemed to lie in education, which promoted open-mindedness and mutual tolerance. The issue of minorities was not therefore a simple matter of numbers; it was a question of lifestyle, education, tolerance and respect for the rights of human beings.

36. Mr. MTHOBI (Pax Romana) said that, as the Working Group on Minorities had indicated in paragraph 14 of its report (E/CN.4/Sub.2/1999/21), the majority of current conflicts involved one or more minority groups, and the violations which often led to tensions and conflicts were violations of minority-specific rights. The Working Group was responsible for promoting the implementation of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and recommending appropriate measures to protect minority rights. Its task was complicated by the fact that the concept of a minority was ambiguous and was not defined in the Declaration itself. The distinction between nations, indigenous peoples and minorities was unclear, but ultimately it should be based on a given community's self-identification. Unfortunately, the feeling of belonging to a specific group, which was a central concept, had not really been taken into account by the international community and the United Nations. The categories devised by the United Nations had been elaborated on the basis of arbitrary and ambivalent criteria. Some groups had rejected those criteria and, considering themselves to be a people, had demanded the right to self-determination. The Sub-Commission should therefore prepare a working paper on constructive approaches to understanding and implementing the right to self-determination, particularly for minorities and indigenous peoples, while at the same time focusing on the implementation of the Declaration.

37. Certain religious communities in Viet Nam, such as the Hoa Hao, Cao Dai, and Muslims "are prevented from conducting their religious activities freely and are therefore subject to interference from the authorities", according to the report submitted by the Special Rapporteur on religious intolerance to the Commission on Human Rights (E/CN.4/1999/58/Add.2). The Sub-Commission should advocate measures to enable religious minorities in Viet Nam to worship in freedom.

38. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that the post-cold-war world had been characterized by fratricidal civil wars, the continual invocation of the right to self-determination, and an upsurge in claims relating to ethnic, religious or linguistic identity. It was clear, however, that minorities were an asset to any country, and that they were essentially asserting their right to life and the protection of their heritage and identity. They aspired to exercise their rights fully and effectively in conformity with international human rights instruments while abiding by the laws of the country in which they lived. At the dawn of the twenty-first century, United Nations efforts to promote and protect minority rights should go beyond a mechanical reading of the texts and concentrate on the actual situation of

minorities in various countries and the effective implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration had a number of legal shortcomings, such as the vagueness of the concept of minorities which could equally well refer to collective entities or, more frequently, to persons belonging to minorities, or yet the lack of an implementation and follow-up procedure.

39. The problems facing the Pandit minority in Indian Kashmir had both external and internal causes. Externally, Pandits had been targeted by religious fanatics inspired and supported by neighbouring countries before being hounded off their lands. Internally, local and central authorities had shown indifference to their plight and had refused to treat them as an internally-displaced population. The Pandits were now entering their tenth year of enforced exile with no sign of an end to their suffering. Greater efforts should therefore be made to guarantee the safety of Kashmiri Pandits who wished to return to Kashmir by protecting their physical integrity and their belongings against the actions of certain members of the dominant community. Moreover, affirmative action programmes should be launched to protect and promote their culture and religion. The priority competence of India's National Commission for Minorities with respect to Government agencies should be acknowledged, and the Kashmiri Pandit community should be allowed to participate in the work of all relevant Government decision-making bodies.

40. Mr. Hatano resumed the Chair.

41. Mr. LEBLANC (Franciscans International) said that the problem of religious intolerance was at the root of various conflicts and ongoing violence in many parts of the world. Franciscans International had already expressed its concern about the situation of religious minorities in Pakistan, particularly in regard of the blasphemy law and the system of separate electorates, in a document submitted jointly with other organizations (E/CN.4/1999/NGO/31). Among other things, the blasphemy law violated the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In its present form it was a tool for the victimization and persecution of minorities. Although the definition of the term blasphemy was vague, an accusation of blasphemy carried a mandatory death sentence. Under a recently proposed reform, a six-member committee of inquiry would henceforth launch a preliminary investigation to verify that grounds for a case existed before the police could open an inquiry under the blasphemy law. Christian leaders in Pakistan had said that the reform was a step in the right direction, but they had nevertheless continued to press for the complete abolition of the law in question. Under the system of separate electorates, a quota of seats was reserved for non-Muslim candidates in national legislative bodies. Non-Muslim voters could only elect non-Muslim candidates and were not entitled to vote for Muslim candidates in general elections. The Government of Pakistan should abolish that discriminatory system which merely exacerbated religious divisions in society.

42. Violence against religious minorities in India had increased. Graham Staines, an Australian missionary who had worked in India with leprosy patients for more than 30 years, had been murdered together with his two young sons in the State of Gujarat seven months previously. More than 30 cases of violence against Christians by Hindu extremist groups, in addition to discrimination, had been reported.

43. Mr. NABI FAI (International Islamic Federation of Student Organizations (IIFSO)) said that minorities could discriminate against majorities when they held political or military power, as the examples of Rwanda and Burundi had demonstrated. During the previous year, a number of minorities - such as the Kurds in Iraq, the Albanians in Kosovo, the Serbs in Croatia and the Croatians in Serbia - had continued to experience discrimination. On the positive side, minority populations in Bulgaria, Hungary, Slovakia and Romania now seemed to be treated on a footing of equality. The East Timorese would soon decide their future by referendum.

44. For centuries, the Kashmiri Pandit community had coexisted peacefully with the Muslim majority, but now they had been uprooted. Some 75,000 of the 91,000 Pandits were living in refugee camps and felt the loss of their homeland keenly. The occupation of a country by foreign troops was akin to spiritual and intellectual rape. In Kashmir, foreign occupation had destroyed the communal harmony which Mahatma Gandhi had held up as a model. The Pandits had fled because of Jagmohan, the former Indian Governor, who had deluded people into believing that Kashmir's problems were due to communal rivalry, whereas resistance to occupation had nothing to do with such rivalries but was intended to protect freedom and justice.

45. Only rapid and resolute action by the United Nations, as in Bosnia, Kosovo or East Timor, could resolve Kashmir's problems. As a first step, for example, the Secretary-General could appoint a special envoy for Kashmir, as he had done for East Timor.

46. Mr. HASSAN (Observer for Pakistan) said that the Working Group on Minorities, in whose work his delegation had participated, had helped to increase international awareness of the importance of minosity rights.

47. Pakistan endorsed Mr. Eide's analysis of the preamble to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/AC.5/1998/WP.1), which clearly stated that the purpose of the Declaration was to promote implementation of the principles of the United Nations. Those principles included the maintenance of peace, territorial integrity and cooperation. Another important principle was the right to self-determination. A people which had never had the opportunity to exercise that right in conditions prescribed by the United Nations could not be described as secessionist or irredentist. In such cases, an occupying power could not be said to have observed the principle of "equal rights and self-determination of peoples". Nothing in the Declaration authorized a State to deny the right of self-determination to a people whose land it had occupied on the pretext of protecting its own territorial integrity.

48. Pakistan also endorsed the view that the protection of minorities was based on three essential requirements, namely non-exclusion, non-assimilation and non-discrimination. The protection of minorities was an absolute necessity. Pakistan's minorities, who accounted for 3 per cent of the population, had the right to preserve their language, script and culture. They also had access to the courts if they believed that their constitutionally guaranteed rights had been violated. Moreover, a number of seats had been set aside for them in the National Assembly and provincial assemblies, and most minorities were now requesting that seats should also be reserved for them in the Senate. In

addition, the Government had established an inter-faith committee composed of representatives of all communities to consider questions such as the separate electorates and the blasphemy law. Yet other steps had been created to ensure the full enjoyment of minority rights. For example, a Ministry for Minorities and a National Commission on Minorities had been created. State-funded teaching establishments were forbidden by law to deny admission to any student on the grounds of race, religion, caste or place of birth. Moreover, various awards had been instituted to recognize the achievements of individuals from minority communities in the cultural and scientific fields.

49. The best way to promote the welfare of minority communities in Pakistan was to create favourable conditions for rapid social and economic progress, which was the goal of the Prime Minister Nawaz Sharif.

50. Ms. SCHELLONGOVÁ (Observer for the Czech Republic) said that since 1989, the problem of coexistence between the Roma minority and the rest of the Czech population had worsened considerably, as indicated by the increase in the number of Roma seeking asylum in countries of the European Union and Canada. The Czech Republic nevertheless believed that the Roma issue was not a uniquely Czech or European problem, but that it should be addressed internationally through the United Nations. Although the issue had been tackled by the Committee on the Elimination of Racial Discrimination and the Commission on Human Rights, the only United Nations document which referred to the problem specifically was Commission on Human Rights resolution 1992/65, in which the focus adopted was unfortunately too narrow.

51. The Roma were not a national minority in the sense that they had no natural ties with any State or region. For that reason, both national and international protection of the Roma was unsatisfactory compared with that enjoyed by national minorities. In many countries, the Roma were not officially recognized as a protected minority. As persons belonging to a particularly vulnerable social group, they should benefit from special protection.

52. The Roma had justified their migration by invoking the United Nations Convention relating to the Status of Refugees, and also by the fear of persecution. In point of fact, their migration had been prompted by a combination of occasional manifestations of intolerance or discrimination, economic reasons and their natural inclination to roam. Introducing visa requirements was not the answer. On the contrary, such a step might compound social tensions between the Roma minority and the rest of the population in the countries concerned.

53. In the past, the Central and East European countries had attempted to suppress the nomadic character of the Roma by force. Western countries, on the other hand, had let the Roma lead their nomadic way of life; that approach had actually minimized their contacts with the majority population and resulted in their social exclusion. Neither approach was completely satisfactory. The Roma's lifestyle was in fact very similar to that of certain non-European populations, so that the experience of some countries in striking a balance between a traditional way of life and the new lifestyle spawned by globalization could thus prove extremely useful.

54. The Czech Republic believed that the Roma issue had to be addressed on a global basis and that the Sub-Commission and its Working Group on Minorities were in the best position to propose solutions. The issue should be discussed during the symposium preceding the Sub-Commission's May 2000 session. Furthermore, an expert should prepare a study or a paper on the Roma that would look into ways of eliminating racial discrimination against them, encouraging their social integration, reducing their vulnerability, strengthening their self-identification as a group, enhancing their traditional way of life based on free movement unrestricted by national borders, and ensuring international representation for them. The Sub-Commission should also consider the possibility of drawing up a resolution that reflected those proposals and provided a springboard for the international community to address the Roma issue on an worldwide basis.

55. Mr. BEREZNY (Observer for the Russian Federation) said that ethnic conflicts had constituted some of the most serious problems in human history. Since its adoption in 1992, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities had played a significant role in protecting the rights of minorities, and he added that the Working Group on Minorities had also made a very valuable contribution to the search for peaceful solutions to minority-related problems. Greater emphasis should be placed on the development of preventive strategies and the study of regional mechanisms for protecting minority rights.

56. There were at least 140 different peoples and nationalities in the Russian Federation, and although minority groups had encountered certain problems, the Government was doing its utmost to address them in an equitable manner by enacting legislation and improving living conditions.

57. The situation of the Russian-speaking minority in Latvia and Estonia was a source of concern. In Latvia, amendments to legislation had done nothing to expedite the process of naturalization. At the present rate, people would still be stateless in 50 years, time. Thanks to pressure by the international community, Latvia had undertaken to review the Official Language Act. In Estonia, legislation placed 70,000 people in an irregular situation, including persons who had been born in Estonia and had always lived there with their families. The case of Mr. Morosov, who had been threatened with expulsion, was a good example, and his expulsion would create a dangerous precedent in Estonian-Russian relations. It was necessary to call a halt to discrimination against Russian-speakers in both countries, put an end to situations of mass statelessness and apply European standards.

58. Mr. Eide was to be congratulated on his work as Chairman-Rapporteur of the Working Group on Minorities and on his very useful study.

59. Mr. PALIHAKKARA (Observer for Sri Lanka) said that the report of the Working Group on Minorities (E/CN.4/Sub.2/1999/21) was proof that Governments, NGOs and international bodies could work together constructively and pragmatically, and expressed the hope that the Working Group would have the necessary funds to fulfil its mandate.

60. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities had been a milestone in the protection of

minority rights. It contained guidelines to help States protect the rights of minorities and all citizens living in multi-ethnic and multilingual societies in a manner consistent with the Charter of the United Nation and the principle of the territorial integrity of States.

61. Sri Lanka was convinced that the transfer of power to local authorities was one way of strengthen minority rights and enhancing the effective participation of minorities within a democratic and pluralistic framework while respecting cultural differences. It was in that spirit that Sri Lanka had embarked on a reform of its Constitution.

62. Sri Lanka was proud to have been able to contribute to the efforts of the Working Group on Minorities, in particular through the participation of the late Neelan Tiruchelvam, and firmly believed that non-violent means could be used to achieve agreement on the promotion and protection of minority rights in a tolerant, democratic and pluralistic society. NGOs could make a contribution in that respect. Moreover, his Government called on those NGOs which still provided a platform for separatist terrorist organizations that advocated violence to desist from doing so. Terrorism and political extremism would only lead to stalemate.

63. Mr. KAVSADZE (Observer for Georgia) said that the existence of minorities did not presuppose any kind of recognition and noted that the stability of a multi-ethnic State was ensured by de facto equality between its minority and majority populations. In accordance with universally recognized principles and standards of international law and the Georgian Constitution, government, parliamentary, administrative and judicial bodies were prohibited from discriminating against citizens on grounds of birth, race, language, and national or social origin. All Georgian citizens enjoyed a complete range of rights regardless of their national origin, ethnic background or religious beliefs. They were entitled to develop their culture freely and use their language in private and in public. The sole criterion for obtaining Georgian citizenship was permanent residence in Georgia. No knowledge of the national language was therefore required. Moreover, incitement to hatred based on national or racial origin or religion was an serious offence under the Georgian Criminal Code.

64. Almost 30 per cent of the Georgian population consisted of 90 ethnic groups, including Azerbaijanis, Armenians, Ossetians, Russians, Greeks, Ukrainians, Kurds, Jews, Belarusians and Tatars, who had their own newspapers, radio and television broadcasts and public schools, and participated actively in the social and political life of the country. In the Abkhaz Autonomous Republic, on the other hand, the Abkhaz accounted for only 18 per cent of the population, with Georgians making up 49 per cent. The Georgian Government had done everything it could to find a peaceful solution to the political and ethnic conflict which had flared up in the region, but success had thus far proved elusive and nearly 300,000 displaced people were still waiting to return to their homes.

65. The Sub-Commission should urge the Working Group on Minorities to study the causes of the ethnic and political conflicts in the former USSR and invite the Preparatory Committee of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to formulate proposals on the subject that study would certainly contribute to a better understanding of the

concept of an ethnic minority and the inviolability of State territory in relation to the right of self-determination. It would also make possible the formulation of recommendations on the role of international organizations in the settlement of existing conflicts.

66. Mr. EISA TALIB (Observer for the Sudan) said that the Sudan was a party to the international human rights instruments which called for the promotion and protection of minorities, and that the Sudanese Constitution and legislation guaranteed the equality of all citizens in every area of life regardless of race, sex or religious beliefs. The Government's social strategy aimed of the integration of all minorities as an essential component of a peaceful, democratic and pluralistic society, and the achievement of harmony among various social groups while safeguarding their cultural and religious rights. Minorities had participated actively in the social, economic, cultural and political life of the country, especially since the ratification of the Khartoum Peace Agreement of 1997 between the Sudanese Government and seven former rebel groups in the south of the country, and the subsequent agreement with the Nuba mountains factions. Many representatives of those groups and factions held positions in the Government and the National Assembly. The Sudanese Government was also encouraging the use of tribal mechanisms for resolving conflicts between various groups.

67. Sudan was cooperating with various United Nations specialized agencies such as the United Nations Children's Fund (UNICEF), the International Labour Organization (ILO), the World Health Organization (WHO) and the Office of the High Commissioner for Refugees, as well as with NGOs which were offering technical and other forms of assistance to groups affected by the armed conflict, and was providing them with the necessary information on minorities to enable them to fulfil their mandate. The armed conflict in the south of the country was one of the major obstacles to the enjoyment of human rights by minorities in the Sudan. For that reason, his Government hoped that the Sub-Commission would urge the international community to support the measures it had adopted, and particularly the comprehensive ceasefire declared at the beginning of August, in order to reach a final, peaceful and just solution to the armed conflict in southern Sudan.

68. Mr. DOUVOS (Observer for Greece), referring to paragraphs 27, 29 and 39 of the report of the Working Group on Minorities (E/CN.4/Sub.2/1999/21), said that the Muslim minority in Thrace was not Turkish; it consisted of three ethnic groups, namely Muslims of Turkish origin (50 per cent); the Pomaks, an indigenous people who had converted to Islam under the Ottoman Empire (35 per cent); and the Gypsies (15 per cent). Each of those groups had its own language, culture and history. For that reason, the framers of the 1923 Treaty of Lausanne, who were aware of the composition of the minority, had characterized it as a religious community. It was therefore inaccurate to speak of a Turkish minority.

69. Nor was there any "Macedonian" minority in Greece. There were some bilingual people in the north of the country who spoke Greek and a Slavonic language, but they failed to consider themselves as belonging to a minority. Persons who believed that their rights had been violated had access to the Greek courts, and if they failed to receive satisfaction from that quarter they were entitled to take their case to the European Court of Human Rights in Strasbourg.

70. There were no legal or administrative provisions in force in Greece under which members of the Muslim minority could be deprived of their Greek citizenship. The Greek Parliament had adopted a new Act abolishing article 19 of the former Citizenship Code. The Greek Government had already provided comprehensive information on those matters to the Working Group and the Office of the High Commissioner for Human Rights. The material was available for consultation in the Secretariat's files.

71. Ms. MOTOC thanked the Sub-Commission and especially the Working Group for their pioneering work on minority-related issues. Problems involving minorities had resurfaced in East European countries following the collapse of communism because, having been liberated from State control but confronted with the process of globalization, individuals had embarked on search for their identity, which they eventually discovered in their relationship not with the State but with their community. At the local level, particularly in Eastern Europe, that search had found expression in the rediscovery and relearning of almost extinct regional or local dialects. Internationally, it had culminated in the adoption in 1992 of the United Nations Declaration and the Council of Europe's Framework Convention for the Protection of National Minorities. The question now was whether the United Nations should adopt a more binding instrument, such as a convention, which would establish a monitoring mechanism similar to the one used to enforce the European Framework Convention. The issue was further complicated by the difficulty of defining minority rights and the actual concept of a minority.

72. The key issue highlighted by the Working Group was the need for dialogue between minorities and States. But when such a dialogue had been developed and transformed into genuine political participation, problems of a different order would arise, much as the relationship between the protection of human rights and democracy. Since demands by national, religious or ethnic minorities to participate in all forms of State decision-making implied the existence of democracy, what had to be done at present was to determine how the political participation of minorities could be guaranteed in States which were not democratic in the European sense of the term but which nevertheless protected and respected human rights. Alternatively, the multicultural approach outlined by the Working Group in the course of its discussions could provide a solution to the minorities issue, provided that multiculturalism was encouraged in all spheres and not just in education.

73. There was also an underlying theoretical connection between the rights of indigenous peoples and the rights of minorities. The idea that indigenous peoples possessed only collective rights raised interesting questions with regard to the way that certain minorities defined themselves or to the identity to which they laid claim.

74. The situation of the Roma minority was more problematic, arise they had been persecuted by Fascists and Communists alike and been forced to settle down. Yet one of their key demands was freedom of movement within and between States, and it was hard to see how it could be satisfied by States. However, the problem would enable the countries concerned to work together after years of communist rule.

75. Although it was natural that the Sub-Commission should base its work on positive law, it should also take account of de facto situations, especially with

regard to the right to self-determination and autonomy. Although there was no such thing as a right to secession, it was apparent that, when States seceded, they were generally recognized. For that reason, he welcomed Mr. Joinet's proposal for a study on the right to self-determination.

76. Mr. EIDE, (Chairman-Rapporteur of the Working Group on Minorities), introducing the Working Group's conclusions, said he had been struck by the thoughtful content of the statements made on item 8. As Mr. Sik Yuen had remarked, there was always a way to settle minority-related problems of a more constructive approach was adopted. A number of problems in countries such as Romania had been defused when intransigence had yielded to political wisdom and maturity.

77. A number of speakers had raised the question of self-determination, which was certainly important and should perhaps be the subject of a study by the Sub-Commission, as suggested by Mr. Joinet. It should be remembered, however, that the concept of self-determination was occasionally used in bad faith, as the Observer for Pakistan had pointed out. Self-determination was never absolute. Everyone also had obligations and should cooperate with others. The Working Group's view in the matters was based on article 8, paragraph 4, of the 1992 Declaration, which stated that the rights of minorities should not be exploited as a pretext for demanding independence. The Working Group was not, therefore, the appropriate forum in the circumstances. The problem was a difficult one which the Sub-Commission would have to tackle in one way or another.

78. It was also important to consider the underlying causes of current ethnic conflicts, as Mr. Bengoa had emphasized. Globalization was perhaps one factor fuelling new demands centred on identity. Religion could also be used as a means to affirm identity, sometimes to the detriment of other religions in a given State. Many NGOs had reported the intolerance experienced by religious minorities in some countries. The Working Group had always held the view that it should deal with the situation of religious groups only if they were identified as ethnic groups, since there was already a special rapporteur on religious intolerance. The problem was, however, extremely serious, and it was perhaps important that the Working Group should consider it in greater detail.

79. Although it was globally agreed that the task of defining a minority involved considerable difficulties, steps should at least be taken to establish certain criteria that would provide a better understanding of what constituted a minority, as Mr. Sorabjee had suggested. In his own view, a minority was a group identified as a specific ethnic, religious or linguistic group which, owing to limited numbers, was unable or probably unable to preserve its culture, practise its religion or use and learn its language. That seemed to be an adequate working definition.

80. The question of discrimination against women within minorities should also be taken into account, as suggested by Ms. Udagama, because the rights of minorities should not be used as a cloak for such discrimination. The distinction between indigenous peoples and minorities also merited further study, and he and Ms. Daes might perhaps prepare a joint working paper on the question for submission to the Sub-Commission at its fifty-second session. Ms. Motoc's point about the relationship between democracy and minority rights protection was also extremely interesting, since there were certain immature forms of democracy

which could exacerbate the situation in that field, many examples of which could be cited.

81. An other interesting point raised by Mr. Alfonso Martinez and Mr. Fan Guoxiang was the need to settle minority problems both nationally and internationally by peaceful means and to ensure the participation of minorities in international decision-making on issues of concern to them. That suggestion had already been done in the sense that a number of minorities had participated in the work of the Sub-Commission or the Working Group and in the preparation the 1992 Declaration. Other issues which the Sub-Commission should consider included the situation of groups constituting a majority in a country as a whole but a minority in a more or less autonomous region, such as the Kashmiri Pandits, or the situation of nomadic minorities such as the Roma. He welcomed Mr. Weissbrodt's suggestion that a working paper should be prepared on the subject. Finally, he thanked the NGOs which had contributed to the debate and assured them that all the points they had raised, and particularly the question of religious intolerance, would be duly taken into account.

The meeting rose at 6.05 p.m.